



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: James Kenneth McAlpine § Atty. Docket No: M-0930.02
Application No: 10/556,716 § § Examiner: T. Nguyen
Filed: November 10, 2005 § § Group Art Unit: 3751
For: WASTE OUTLET PLUG § §

APPLICANT'S BRIEF ON APPEAL

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Sir:

Applicant timely presents its Brief on Appeal for the referenced application responsive to the Final Rejection dated November 13, 2009.

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REAL PARTY IN INTEREST

The real party in interest is McAlpine & Company Limited, a company organized and existing under the laws of the United Kingdom, whose business address is Kelvin Avenue, Hillington, G52 4LF, United Kingdom.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences.

STATUS OF THE CLAIMS

Claims 1-30 and 32 remain in the referenced application.

Claims 1-30 and 32 are the subject of this appeal.

Claims 1-4, 6-14, and 19-30 stand rejected under 35 U.S.C. §102(b) by Garguillo et al. (U.S. Patent No. 5,418,983 – hereinafter referred to as Garguillo).

Claims 1, 2, 5, 7-14, 19-21, and 23-30 stand rejected under 35 U.S.C. §102(b) by Peterson et al. (U.S. Patent No. 6,067,669 – hereinafter referred to as Peterson).

Claims 15-18 and 32 stand rejected under 35 U.S.C. §103(a) by Garguillo or Peterson in view of Downey et al. (U.S. Patent No. 3,428,295 – hereinafter referred to as Downey).

STATUS OF AMENDMENTS

Applicant's Amendment "A" dated January 15, 2008, has been entered into the referenced application.

Applicant's Amendment "B" dated July 23, 2008, has been entered into the referenced application.

Applicant's Amendment "C" dated February 5, 2009, has been entered into the referenced application.

Applicant's Amendment "D" dated July 22, 2009, has been entered into the referenced application.

Applicant's Amendment After Final presented in order to correct typographical errors in the claims has been submitted with this Brief on Appeal; however, the Office has not indicated whether Applicant's Amendment After Final will be entered into the referenced application prior to processing of Applicant's Appeal.

SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter of claim 1 consists of a plug 10 for cooperating with a waste outlet 12 (see page 7, lines 11-15, in light of Figure 2). The plug 10 includes a stem comprising a first portion 20a coupled with a second portion 20b (see page 7, lines 18-21, in light of Figure 2). The stem is received in the waste outlet 12 and is removable therefrom such that both the first portion 20a and the second portion 20b separate as a unit from the waste outlet 12 (see page 6, lines 11-15, in light of Figure 2). The plug 10 also includes a seal 28 coupled with the stem (see page 8, lines 1-3, in light of Figure 2). The plug 10 further includes a strainer member 30 operatively associated with the seal 28 (see page 8, lines 1-3, in light of Figure 2) or a strainer member 130 operatively associated with the stem (see page 9, lines 12-16, in light of Figure 3). The stem is selectively adjustable in length responsive to a compressive force exerted on the stem and relative movement between the first portion 20a and the second portion 20b selectively adjusts the length of the stem such that the seal 28 selectively engages a portion of the waste outlet 12 to open and seal the waste outlet 12 (see page 8, line 14, through page 9, line 12, in light of Figure 2). In particular, a compressive force on the stem moves the first and second portions 20a and 20b to a stop position that locates the seal 28 over a portion of the waste outlet 12 (see page 8, lines 14-26, in light of Figure 2). Likewise, a compressive force on the stem moves the first and

second portions 20a and 20b to an open position that releases the seal 28 from the waste outlet 12 (see page 9, lines 1-12, in light of Figure 2).

The subject matter of claim 32 consists of a plug 10 for cooperating with a waste outlet 12 (see page 7, lines 11-15, in light of Figure 2). The plug 10 includes a stem comprising a first portion 20a coupled with a second portion 20b (see page 7, lines 18-21, in light of Figure 2). The stem is received in the waste outlet 12 and is removable therefrom such that both the first portion 20a and the second portion 20b separate as a unit from the waste outlet 12 (see page 6, lines 11-15, in light of Figure 2). The plug 10 also includes a seal 28 coupled with the stem (see page 8, lines 1-3, in light of Figure 2). The plug 10 further includes a strainer member 30 operatively associated with the seal 28 (see page 8, lines 1-3, in light of Figure 2) or a strainer member 130 operatively associated with the stem (see page 9, lines 12-16, in light of Figure 3). The stem is selectively adjustable in length responsive to a compressive force exerted on the stem and relative movement between the first portion 20a and the second portion 20b selectively adjusts the length of the stem such that the seal 28 selectively engages a portion of the waste outlet 12 to open and seal the waste outlet 12 (see page 8, line 14, through page 9, line 12, in light of Figure 2). In particular, a compressive force on the stem moves the first and second portions 20a and 20b to a stop position that locates the seal 28 over a portion of the waste outlet 12 (see page 8, lines 14-26, in light of Figure 2). Likewise, the release of the compressive force on the stem moves the first and second portions 20a and 20b to an open position that releases the seal 28 from the waste outlet 12 (see page 9, lines 1-12, in light of Figure 2).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The rejection of claims 1-4, 6-14, and 19-30 under 35 U.S.C. §102(b) by Garguillo et al. (U.S. Patent No. 5,418,983 – hereinafter referred to as Garguillo) is a subject of this Appeal.

The rejection of claims 1, 2, 5, 7-14, 19-21, and 23-30 stand rejected under 35 U.S.C. §102(b) by Peterson et al. (U.S. Patent No. 6,067,669 – hereinafter referred to as Peterson) is a subject of this Appeal.

The rejection of claims 15-18 and 32 stand rejected under 35 U.S.C. §103(a) by Garguillo or Peterson in view of Downey et al. (U.S. Patent No. 3,428,295 – hereinafter referred to as Downey) is a subject of this Appeal.

ARGUMENT

35 U.S.C. §102(b):

Applicant responds to the 35 U.S.C. §102(b) rejection of claims 1-4, 6-14, and 19-30 by Garguillo et al. (U.S. Patent No. 5,418,983 – hereinafter referred to as Garguillo) as follows.

CLAIM 1:

Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. §102(b) by Garguillo on the basis that Garguillo in particular does not disclose Applicant's stem which comprises a first portion coupled with a second portion such that both separate as a unit from the waste outlet with the removal of the stem.

Garguillo discloses a decorative color changeable basket sink strainer assembly 10 comprised of a strainer body 12, a decorative insert 14, a basket assembly 16, and a cup member 31. The strainer body 12 engages the top of a sink bottom 5 and extends through a drain hole 7 of the sink bottom 5 where a threaded section 22 of the strainer body 12 engages conventional drain plumbing. The cup member 31 engages the underside of the sink bottom 5 in a position about the strainer body 12. The cup member 31 is held in place via a locknut 40 that engages the threaded section 22 of the strainer body 12. The strainer body 12 and the cup member 31 form a drain in the sink bottom 5 that permits flow from the sink bottom 5 to conventional drain plumbing. The

decorative insert 14 fits within the strainer body 12 merely for the purpose of providing an aesthetic appearance in the sink bottom 5. The decorative insert 14 is secured to the strainer body 12 by a hollow screw means 60 that engages a threaded nut 32 attached to the strainer body.

The basket assembly 16 includes a strainer basket 70, a stem 72 having a spring-retractable ball retainer 74, a pull knob 76, and a stopper cup 78. The basket assembly 16 fits within the decorative insert 14 to seal the decorative insert and prevent flow from the sink bottom 5 to conventional drain plumbing. In particular, the portion of the stem 72 with the spring-retractable ball retainer 74 fits within a bore 61 of the hollow screw means 60 such that the spring-retractable ball retainer 74 engages the bore 61 to hold the basket assembly 16 within the decorative insert 14; the stopper cup 78 engages the decorative insert 14, thereby sealing decorative insert 14, and the strainer basket 70 fits with the decorative insert 14.

Although the stem 72 is completely rigid and in no way adjusts in length to engage the stopper cup 78 with the decorative insert 14, the Examiner asserts the pull knob 76, the stem 72, and the hollow screw means 60 form a “stem” that is selectively adjustable in length in that the stem 72 may be moved relative to the hollow screw means 60 to change the position of the stopper cup 78. While the stem 72 may be moved relative to the hollow screw means 60, the stem 72 and the hollow screw means 60 both do not separate as a unit from the waste outlet with the removal of the “stem” defined by the Examiner because the hollow screw means is at least semi-permanently secured to the sink bottom 5. Garguillo accordingly does not disclose a stem comprised of a first portion coupled with a second portion such that the stem is selectively adjustable in length and the first portion and the second portion are removable as a unit from a waste outlet because it is not possible to remove the stem 72 and the hollow screw means 60 as a unit from the waste outlet disclosed by Garguillo. Applicant therefore respectfully submits claim

1 is patentable over Garguillo.

CLAIMS 2-4 and 6:

Applicant respectfully traverses the rejection of claims 2-4 and 6 under 35 U.S.C. §102(b) by Garguillo based upon the preceding arguments with respect to claim 1.

CLAIM 7:

Applicant respectfully traverses the rejection of claim 7 under 35 U.S.C. §102(b) by Garguillo. Claim 7 recites the strainer is removable from the stem or seal. Garguillo does not disclose the strainer basket 70 as removable from the stem 72. Claim 7 is thus patentable over Garguillo.

CLAIMS 8-14 and 19:

Applicant respectfully traverses the rejection of claims 8-14 and 19 under 35 U.S.C. §102(b) by Garguillo based upon the preceding arguments with respect to claim 1.

CLAIMS 20-23:

Applicant respectfully traverses the rejection of claims 20-23 under 35 U.S.C. §102(b) by Garguillo. Claims 20-23 recite a stem as adapted to connect with a waste outlet. The stem 72 of Garguillo resides in the decorative insert 14 and is not connected to the drain. Claims 20-23 are thus patentable over Garguillo.

CLAIMS 24-30:

Applicant respectfully traverses the rejection of claims 24-30 under 35 U.S.C. §102(b) by Garguillo based upon the preceding arguments with respect to claim 1.

35 U.S.C. §102(b):

Applicant responds to the 35 U.S.C. §102(b) rejection of claims 1, 2, 5, 7-14, 19-21, and 23-30 by Peterson et al. (U.S. Patent No. 6,067,669 – hereinafter referred to as Peterson) as follows.

CLAIM 1:

Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. §102(b) by Peterson on the basis that Peterson in particular does not disclose Applicant's stem which comprises a first portion coupled with a second portion such that both separate as a unit from the waste outlet with the removal of the stem.

Peterson discloses a drain plug assembly comprised of a replacement housing 12, a rigid stem 16, a strainer 30, a stopper 50, and a knob 60. The replacement housing 12 is exteriorly threaded at 14 to be turned into a drain opening of a bathtub. The strainer 30 fits within the housing 12, and the stopper 50 fits within the strainer 30 in a position such that a valve head 74 of the stopper 50 can engage a flange 80 of the housing 12. The rigid stem 16 fits through the stopper 50 and is threaded into a boss 20 of the housing 12 using a screwdriver inserted into slots 90. The knob 60 fits over the rigid stem 16 and threads into the stopper 50. In operation, pressing the knob 60 down forces the valve head 74 of the stopper 50 onto the flange 80 of the housing 12, thereby sealing the drain. Lifting the knob 60 moves the valve head 74 of the stopper 50 away from the flange 80 of the housing 12, thereby opening the drain.

Although the stem 16 is completely rigid and in no way adjusts in length to engage the valve head 74 of the stopper 50 with the flange 80 of the housing 12, the Examiner asserts the rigid stem 16, the knob 60, and the stopper 50 form a "stem" that is selectively adjustable in length in that the stopper 50 may be moved relative to the rigid stem 16. While the stopper 50

may be moved relative to the rigid stem 16, the “stem” as defined by the Examiner is not removable as a unit from the waste outlet. Removal of the “stem” requires unscrewing the knob 60 from the stopper 50, unscrewing the rigid stem 16 from the boss 20 of the housing 12 using a screwdriver inserted into slots 90, and removing the stopper 50. Such disassembly certainly does not disclose Applicant’s first portion coupled with a second portion wherein the first portion and the second portion are removable as a unit from a waste outlet. Peterson accordingly does not disclose a stem comprised of a first portion coupled with a second portion such that the stem is selectively adjustable in length and the first portion and the second portion are removable as a unit from a waste outlet because it is not possible to remove the rigid stem 16, the knob 60, and the stopper 50 as a unit from the waste outlet disclosed by Peterson. Applicant therefore respectfully submits claim 1 is patentable over Peterson.

CLAIM 2:

Applicant respectfully traverses the rejection of claim 2 under 35 U.S.C. §102(b) by Peterson. Claim 2 recites the strainer as being located above the seal. The strainer 30 of Peterson resides below the valve head 74 of the stopper 50. Claim 2 is thus patentable over Peterson.

CLAIM 5:

Applicant respectfully traverses the rejection of claim 5 under 35 U.S.C. §102(b) by Peterson based upon the preceding arguments with respect to claim 1.

CLAIM 7:

Applicant respectfully traverses the rejection of claim 7 under 35 U.S.C. §102(b) by Peterson. Claim 7 recites the strainer as being removable from the stem or seal. The strainer 30 of Peterson does not connect with the rigid stem 16 or the stopper 50. Claim 7 is thus patentable over Peterson.

CLAIMS 8-14, 19-21, and 23-30:

Applicant respectfully traverses the rejection of claims 8-14, 19-21, and 23-30 under 35 U.S.C. §102(b) by Peterson based upon the preceding arguments with respect to claim 1.

35 U.S.C. §103(a):

Applicant responds to the rejection of claims 15-18 and 32 under 35 U.S.C. §103(a) by Garguillo in view of Downey et al. (U.S. Patent No. 3,428,295 – hereinafter referred to as Downey) as follows.

CLAIMS 15-18 AND 32:

Applicant respectfully traverses the rejection of claims 15-18 and 32 over the combination of Garguillo in view of Downey as suggested by the Examiner. The Examiner asserts Downey discloses a push-activated valve that moves a seal member up and down to effectively seal a waste outlet. The Examiner further asserts employing Downey involves merely using a known technique to improve a similar device. The Examiner accordingly alleges it would be obvious to one of ordinary skill in the art to employ the push-activated valve of Downey in place of the stem 72 of Garguillo because Garguillo and Downey are in the same field of endeavor and one of ordinary skill in the art would find an effective way to combine Garguillo and Downey. Essentially, the Examiner argues that Garguillo and Downey may be combined because Downey discloses that push-activated valves are known and both Garguillo and Downey are in the same field of endeavor.

Applicant respectfully contends the Examiner has not set forth a prima facie case that it would have been obvious to employ the push-activated valve of Downey in place of the stem 72 of Garguillo because the reason set forth by the Examiner – same field of endeavor in light of the possibility that one of ordinary skill in the art could make the combination – is not adequate to

explain why it would have been obvious to one of ordinary skill in the art to combine Garguillo and Downey when such a combination requires rendering Garguillo's decorative color changeable basket sink strainer assembly unable to perform according to its intended purpose. Garguillo specifically recites in column 1, lines 30-35, "... for changing the décor, appearance or color of the drain body while at the same time allowing the use of "removable" basket sink strainers which have a ball stem holding." Garguillo accordingly specifically discloses that the sink strainer assembly uses a "removable" basket sink strainer in that the basket sink strainer is separable from the basket sink strainer assembly without disassembly. In contrast, the push-activated valve of Downey must be secured to a drain, and removing the push-activated valve of Downey requires a complicated disassembly process that involves multiple parts including push button 15, front housing part 20, mounting post 33, back housing part 36, indexing ring element 50, and springs 31 and 55. As such, substituting the push-activated valve of Downey for the stem 72 of Garguillo requires that the basket sink strainer be secured to the decorative insert such that the basket sink strainer is not "removable" without disassembly. It is thus clear that substituting the push-activated valve of Downey for the stem 72 of Garguillo renders the basket sink strainer assembly incapable of satisfying a special feature of its design. It is impossible for the basket sink strainer to be "removable" because removal of the push-activated valve of Downey requires a complicated disassembly process that certainly does not satisfy the definition of "removable".

Applicant therefore respectfully submits that the reason for combination set forth by the Examiner – same field of endeavor – is insufficient to justify the combination because it does not adequately explain why Downey's non-removable push-activated valve would be substituted for Garguillo's removable stem 72 when such a substitution renders the Garguillo basket sink strainer assembly unsatisfactory for its intended purpose of being "removable".

Applicant further respectfully contends the Examiner has not set forth a prima facie case that it would have been obvious to employ the push-activated valve of Downey in place of the stem 72 of Garguillo because the reason set forth by the Examiner – same field of endeavor in light of the possibility that one of ordinary skill in the art could make the combination – does not adequately explain why one of ordinary skill in the art would combine devices operating under different principles. Garguillo discloses pressing a stopper 78 until it seats within a decorative insert 14 and cannot be pressed any further in a downward direction. Once seated, the stopper 78 cannot be pressed further downwards and is removable only through pulling upwards. Moreover, the stopper 78 provides a seal that operates parallel relative to the decorative insert 14. In contrast, Downey operates through pressing the push-activated valve downwards to both close and open a drain. Downey also includes a gasket 16 that provides a seal that operates perpendicular relative to the drain. Applicant therefore respectfully submits that the mere fact Garguillo and Downey are in the same field of endeavor is not an apparent and adequate reason to justify the combination because it does not explain why it would be obvious to one of ordinary skill in the art incorporate a push only device with a perpendicular seal into a push/pull device with a parallel seal.

Applicant accordingly respectfully submits claims 15-18 and claim 32 are patentable over the combination of Garguillo in view of Downey on the basis the Examiner has failed to set forth a prima facie case that the claims are obvious.

35 U.S.C. §103(a):

Applicant responds to the rejection of claims 15-18 and 32 under 35 U.S.C. §103(a) by Peterson in view of Downey et al. (U.S. Patent No. 3,428,295 – hereinafter referred to as Downey) as follows.

CLAIMS 15-18 AND 32:

Applicant respectfully traverses the rejection of claims 15-18 and 32 over the combination of Peterson in view of Downey as suggested by the Examiner. The Examiner asserts Downey discloses a push-activated valve that moves a seal member up and down to effectively seal a waste outlet. The Examiner further asserts employing Downey involves merely using a known technique to improve a similar device. The Examiner accordingly alleges it would be obvious to one of ordinary skill in the art to employ the push-activated valve of Downey in place of the rigid stem 16 of Peterson because Peterson and Downey are in the same field of endeavor and one of ordinary skill in the art would find an effective way to combine Peterson and Downey. Essentially, the Examiner argues that Peterson and Downey may be combined because Downey discloses that push-activated valves are known and both Peterson and Downey are in the same field of endeavor.

Applicant respectfully contends the Examiner has not set forth a *prima facie* case that it would have been obvious to employ the push-activated valve of Downey in place of rigid stem 16 of Peterson because the reason set forth by the Examiner – same field of endeavor in light of the possibility that one of ordinary skill in the art could make the combination – is not adequate to explain why it would have been obvious to one of ordinary skill in the art to combine Peterson and Downey when such a combination requires rendering Peterson's strainer equipped drain plug assembly unable to perform according to its intended purpose. Peterson specifically recites in column 1, lines 42-44, "Other objects are to provide a strainer in the replacement drain assembly that is easily removed and cleaned to remove trapped materials." Peterson accordingly specifically discloses that the replacement drain assembly be "easily removable" for regular cleaning in that a simple unthreading of the rigid stem 16 releases the strainer 30. In contrast, the

push-activated valve of Downey is not designed for “easy removal” for regular cleaning because any removal requires a complicated disassembly process involving multiple parts including push button 15, front housing part 20, mounting post 33, back housing part 36, indexing ring element 50, and springs 31 and 55. The push-activated valve of Downey was not designed for regular removal from a drain, and it is certainly not reasonable for the push-activated valve of Downey to be considered “easily removable”. As such, substituting the push-activated valve of Downey for the rigid stem 16 of Peterson requires that the strainer equipped drain plug assembly be secured to a drain such that the strainer equipped drain plug assembly is not “easily removable” for regular cleaning. It is thus clear that substituting the push-activated valve of Downey for the rigid 16 of Peterson renders the strainer equipped drain plug assembly incapable of satisfying a special feature of its design. It is impossible for the strainer equipped drain plug assembly to be “easily removable” for regular cleaning because removal of the push-activated valve of Downey requires a complicated disassembly process that certainly does not satisfy the definition of “easily removable”. Applicant therefore respectfully submits that the reason for combination set forth by the Examiner – same field of endeavor in light of the possibility that one of ordinary skill in the art could make the combination – is insufficient to justify the combination because it does not adequately explain why Downey’s non-removable push-activated valve would be substituted for Peterson’s rigid stem when such a substitution renders the Peterson basket sink strainer assembly unsatisfactory for its intended purpose of being “removable”.

Applicant further respectfully contends the Examiner has not set forth a *prima facie* case that it would have been obvious to employ the push-activated valve of Downey in place of the rigid stem 16 of Peterson because the reason set forth by the Examiner – same field of endeavor in light of the possibility that one of ordinary skill in the art could make the combination – does

not adequately explain why one of ordinary skill in the art would combine devices operating under different principles. Peterson discloses lowering a stopper 50 until a valve head 54 seats against top surface 78 of a flange 80 for a housing 12. Once seated, the stopper 50 cannot be lowered further downwards and is released only through pulling upwards. In contrast, Downey operates through pressing the push-activated valve downwards to both close and open a drain. Applicant therefore respectfully submits that the mere fact Peterson and Downey are in the same field of endeavor is not a sufficient reason to justify the combination because it does not adequately explain why it would be obvious to one of ordinary skill in the art to incorporate a push only device into a push/pull device.

Applicant accordingly respectfully submits claim 1 as amended, claims 15-18, and claim 32 as amended are patentable over the combination of Peterson in view of Downey on the basis the Examiner has failed to set forth a *prima facie* case that the claims are obvious.

In view of the foregoing, Applicant respectfully requests the Final Rejection of the Examiner dated November 13, 2009, be reversed.

Respectfully submitted,

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DATE: 3 June 2010

BY:

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 C.F.R. §1.10 on the date indicated below, addressed to the Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450.

Express Mail No. EM 481161576 US Date: 3 June 2010

Christopher L. Makay

A large, thin-lined oval is drawn across the page. Inside the oval, the name "Christopher L. Makay" is handwritten in black ink.



CLAIMS APPENDIX

Claim 1 (previously presented): A plug for cooperating with a waste outlet, comprising:

- a seal;
- a stem coupled to the seal and comprising a first portion coupled with a second portion, the stem being received in a waste outlet and removable therefrom such that both the first portion and the second portion separate as a unit from the waste outlet, the stem further being selectively adjustable in length in that relative movement between the first portion and the second portion selectively adjusts the length of the stem thereby selectively engaging the seal with a portion of the waste outlet to open and seal the waste outlet; and
- a strainer member operatively associated with one of the seal and the stem, wherein the stem is adjustable in length in response to a compressive force exerted on the stem.

Claim 2 (previously presented): The plug of claim 1, wherein the stem defines a vertical axis, and extends axially downwardly of the seal, with the strainer being located axially upwardly of the seal.

Claim 3 (previously presented): The plug of claim 1, wherein the strainer is adapted for location at an uppermost portion of the plug, with the seal being adapted for location below the strainer within the waste outlet.

Claim 4 (previously presented): The plug of claim 3, wherein the strainer is adapted for location flush with a waste outlet.

Claim 5 (previously presented): The plug of claim 1, wherein in use the seal is located on an upper portion of the plug, with the strainer being located below the seal within the waste outlet.

Claim 6 (previously presented): The plug of claim 1 wherein the plug is for a sink.

Claim 7 (previously presented): The plug of claim 1, wherein the strainer is removable from the stem or the seal to which it is coupled.

Claim 8 (previously presented): The plug of claim 1, wherein the strainer has a shape corresponding to the shape of an opening of a waste outlet.

Claim 9 (previously presented): The plug of claim 1, wherein the plug further comprises a surface for contact with a user's hand.

Claim 10 (previously presented): The plug of claim 9, wherein the surface is in the form of a button.

Claim 11 (previously presented): The plug of claim 9, wherein the surface is provided on a portion of the plug formed to permit grasping thereof.

Claim 12 (previously presented): The plug of claim 9, wherein the surface is provided on a portion of the plug adapted to retain one of the strainer and the seal on the stem.

Claim 13 (previously presented): The plug of claim 12, wherein the portion of the plug is removable from the plug to permit disassembly of the plug.

Claim 14 (previously presented): The plug of claim 9, wherein the surface is dimensioned to substantially conceal a waste outlet opening in use.

Claim 15 (previously presented): The plug of claim 1, wherein the stem comprises two substantially concentric portions biased to a first length.

Claim 16 (previously presented): 16. The plug of claim 15, wherein the stem further comprises a latch means arranged to hold the portions in a second length against the bias.

Claim 17 (previously presented): The plug of claim 1, wherein the stem may be extended and contracted by the application and release of a force in a single direction.

Claim 18 (previously presented): The plug of claim 17, wherein the application of less than around 5 lbs (2.2 kg) of force varies the stem length.

Claim 19 (previously presented): The plug of claim 1, wherein the seal comprises a resilient material.

Claim 20 (previously presented): The plug of claim 1, wherein the stem is adapted to be secured to a waste outlet.

Claim 21 (previously presented): The plug of claim 20, wherein the stem comprises a threaded member for engaging with a correspondingly-threaded member provided on a waste outlet.

Claim 22 (previously presented): The plug of claim 21, further comprising a non-threaded sleeve for engaging with the threaded stem member to allow the stem to be freely received in a waste outlet.

Claim 23 (previously presented): The plug of claim 1, wherein the stem is adapted to be freely received in a waste outlet.

Claim 24 (previously presented): The plug of claim 1, wherein the strainer is a basket strainer.

Claim 25 (previously presented): The plug of claim 1, provided in combination with a waste outlet.

Claim 26 (previously presented): The combination of claim 25, wherein the stem is located in the centre of the waste outlet.

Claim 27 (previously presented): The combination of claim 26, wherein the waste outlet has an inner portion and an outer portion are centrally secured relative to each other.

Claim 28 (previously presented): The combination of claim 27, wherein the strainer and the waste outlet define a flow gap therebetween when the seal is in the open position.

Claim 29 (previously presented): The combination of claim 28, wherein the flow gap is annular and defined by an outer circumference of the strainer and a surrounding inner surface of the waste outlet.

Claim 30 (previously presented): The plug of claim 1, wherein the strainer is fixed relative to the seal.

Claim 31 (cancelled).

Claim 32 (previously presented): A plug for cooperating with a waste outlet, comprising:

a seal;

a stem for being received in a waste outlet and coupled to the seal, the stem comprising a first portion and a second portion and being selectively adjustable in length in that relative movement between the first portion and the second portion selectively adjusts the length of the stem thereby selectively engaging the seal with a portion of the waste outlet to open and seal the waste outlet; and

a strainer member operatively associated with one of the seal and the stem, wherein the stem is extended and contracted by the application and release of a compressive force exerted on the stem.

Claim 33 (cancelled).

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None